

Fair Labor Association: Independent External Factory Assessment

Assessment Date :

02 Aug 2021



Factory Information

FLA Affiliates	Esprit Europe Services GmbH
Country	China
Number of Workers	421

Understanding this Report

Companies that join the FLA agree to uphold the FLA Workplace Code of Conduct throughout their entire supply chain. The Code of Conduct is based on International Labour Organization (ILO) standards, and defines labor standards that aim to achieve decent and humane working conditions.

FLA Code Element

Number of Violations

Compensation (C)	4
Employment Relationship (ER)	3
Forced Labor (F)	1
Freedom Of Association And Collective Bargaining (FOA)	1
Health, Safety And Environment (HSE)	8
Hours Of Work (HOW)	2

Assessment Information

Assessor	Openview- China Shenzhen
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Assessment Date	02 Aug 2021
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Assessment Purpose	Factory Assessment (In-Person)
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ASSESSMENT RESULTS

Compensation (C)

Benchmark ID	C.12.1
Benchmark Details	All legally mandated deductions for taxes, social insurance, or other purposes shall be deposited each pay period in the legally defined account or transmitted to the legally defined agency. This includes any lawful garnishments for back taxes, etc.
Finding Details	The contribution base of the five types of social insurances is not in line with legal requirement. The factory contributes to five types of social insurance based on CNY 3,810 (USD 586) per month, which is not in line with legal requirement of contribution based on worker's average monthly wage of previous year. 10% of workers' average monthly wages of previous year were higher than current contribution base, ranging from CNY 3,900 (USD 600) to CNY 5,200 (USD 800).
Recommendation for Immediate Action	Contribute to social insurance based on worker's average monthly wage of previous year.
Compliance Classifications	Immediate Action Required
Local Law	Social Insurance Law of the PRC, Article 12 and Article 60
Benchmark ID	C.8
Benchmark Details	All workers shall be credited with all-time worked for an employer for purposes of calculating length of service and determine the benefits to which workers are entitled.
Finding Details	The factory does not take workers' external seniority (previous job experience prior to factory employment) into account when calculating annual leave, as required by law.

Recommendation for Immediate Action	Calculate annual leave based on worker's cumulative working experience (working age).
Compliance Classifications	Immediate Action Required
Local Law	Implementation Measures of workers' Paid Annual Leave (2008), Article 4
Benchmark ID	C.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning the payment of compensation to workers.
Finding Details	The factory does not provide social insurance to all eligible workers. There is a total of 375 workers working in the factory, including 96 retired but re-recruited workers and 15 new hires. 264 workers are eligible for social insurance contribution. The factory has provided 144 out of 264 eligible workers (55%) with five types of social insurances, including pension, work-related injury, medical, maternity and unemployment insurances. As a supplement, the factory has provided commercial accidental injury insurance to 164 workers, which is valid from March 28, 2021 to March 27, 2022 and has a maximum benefit amount of CNY 200,000 (USD 30,769) per worker.
Recommendation for Immediate Action	Provide social insurance to all eligible workers.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 72
Benchmark ID	C.21.1
Benchmark Details	Employers shall provide all legally mandated benefits, including holidays, leave, bonuses, severance payments and 13th month payments to all eligible workers within legally defined time periods.
Finding Details	The factory does not contribute to the Housing Provident Fund for any of the 264 eligible workers.

Recommendation for Immediate Action	Provide all eligible workers with the legally required Housing Provident Fund.
Compliance Classifications	Immediate Action Required
Local Law	Regulations on Management of Housing Provident Fund, Article 15

Employment Relationship (ER)

Benchmark ID	ER.1.1
Benchmark Details	Employers shall have in place written policies and practices and maintain proper and accurate records governing all aspects of employment from recruitment, hiring and probation, including written terms and conditions of employment, job descriptions, administration of compensation, and working hours for all positions, through to retrenchment and termination processes.
Finding Details	The factory does not have policy or procedure for managing Retrenchment.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.7.1
Benchmark Details	Employers shall have written policies and procedures with regard to performance reviews that outline the review steps and process, demonstrate linkages to job grading, prohibit discrimination, are provided in writing and seek feedback and agreement/disagreement from employees in writing, and that follow all local legal requirements.

Finding Details	The factory does not conduct performance review for any workers, although the written procedure has been established.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Benchmark ID	ER.1.3
Benchmark Details	Employers should implement an annual, review process with input from workers of all policies, procedures and their implementation to ensure they meet legal requirements and the FLA Workplace Code.
Finding Details	The worker integration component is missing across all Employment Functions. This indicates that the factory has not established procedures to request and receive workers' input and feedback regarding the creation, implementation and updating of its policies and procedures. Workers are neither systematically integrated nor consulted in decision-making processes.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Forced Labor (F)	
Benchmark ID	F.2.2
Benchmark Details	Employment terms shall be those to which the worker has voluntarily agreed, in as far as those terms do not fall below provisions of national laws, freely negotiated and valid collective bargaining agreements, or the FLA Workplace Code.

Finding Details	The factory has not signed employment contracts with 22 workers, while their employment relationship still affiliates to another factory under same group company.
Recommendation for Immediate Action	Sign employment contracts with those 22 workers. The length of service retroactively calculates to the first day when those workers worked for the factory.
Compliance Classifications	Immediate Action Required
Local Law	Law of Employment Contract of PRC, Article 10

Freedom Of Association And Collective Bargaining (FOA)

Benchmark ID	FOA.10
Benchmark Details	Employers shall refrain from any acts of interference with the formation or operation of workers' organizations, including acts which are designed to establish or promote the domination, financing or control of workers' organizations by employers.

Finding Details	<p>The factory has union onsite. FLA Comment: The Chinese constitution guarantees Freedom of Association; however, the Trade Union Act prevents the establishment of trade unions independent of the sole official trade union – the All-China Federation of Trade Unions (ACFTU). According to the International Labor Organization (ILO), many provisions of the Trade Union Act are contrary to the fundamental principles of freedom of association, including the non-recognition of the right to strike. As a consequence, all factories in China fall short of the ILO standards on the right to organize and bargain collectively. Recently, however, the government has introduced new regulations that could improve the functioning of the labor relations’ mechanisms. The Amended Trade Union Act of October 2001 stipulates that union committees have to be democratically elected at members’ assemblies and trade unions must be accountable to their members. The trade union has the responsibility to consult with management on key issues of importance to their members and to sign collective agreements. It also grants the trade union an enhanced role in dispute resolution. In December 2003, the Collective Contracts Decree introduced the obligation for representative trade unions and employers to negotiate collective agreements, in contrast to the previous system of non-negotiated administrative agreements.</p>
Recommendation for Immediate Action	Ensure union representatives are independent from management interference.
Compliance Classifications	Immediate Action Required
Local Law	Nil

Health, Safety And Environment (HSE)

Benchmark ID	HSE.5.1
Benchmark Details	<p>All applicable, legally required or recommended elements of safe evacuation shall be complied with, including all of the following elements: posting evacuation plans; the installation and maintenance of fire alarms; the installation and maintenance of emergency lighting; ensuring aisles/exits are not blocked and that workers are not blocked within their workstations; employee education and training; and evacuation procedures and fire drills.</p>

Finding Details	About 50% of emergency evacuation plans in the workshops are incomplete and do not include the locations of emergency exit and evacuation route.
Recommendation for Immediate Action	Mark the locations of emergency exit and evacuation route in all emergency evacuation plans.
Compliance Classifications	Immediate Action Required
Local Law	Escape and Evacuation-Principles and Requirements, Article 7.3
Benchmark ID	HSE.14.1
Benchmark Details	All production machinery, equipment and tools shall be properly guarded and regularly maintained.
Finding Details	1. About 10% of workers move the eye shields away when operating sewing machines. Besides, the needle guards on about 10% of sewing machines are too high to prevent broken needles from hurting operators. 2. The factory has not established a lockout-tagout procedure or provided tags or locks to mechanics.
Recommendation for Immediate Action	1. Train and monitor workers to use the eye shields properly when operating sewing machines. Install needle guards in an appropriate height to prevent broken needles from hurting operators. 2. Establish a lockout-tagout procedure and supervise its implementation.
Compliance Classifications	Immediate Action Required
Local Law	Code of Design of Manufacturing Equipment Safety and Hygiene, Article 6.1.6
Benchmark ID	HSE.6.1
Benchmark Details	All safety and medical equipment (e.g. fire fighting equipment, first aid kits) shall be available in sufficient numbers throughout the workplace, maintained and stocked as prescribed, and easily accessible to workers.

Finding Details	The factory does not post the name and contact information for medical response personnel throughout the factory.
Recommendation for Immediate Action	Post the name and contact information for medical response personnel throughout the factory.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HSE.4.1
Benchmark Details	Employers shall at all times be in possession of all legally required and valid permits and certificates related to health, safety, and environmental issues, such as: Purchase and storage of chemicals; Fire safety inspections; Machinery inspections; Waste disposal; Environmental licenses/permits; Sanitation permits, including those required for canteens; and Vehicle inspection and driver permits for all employer provided transportation.
Finding Details	The factory has never conducted any kind of assessment on occupational disease hazards since it was founded on February 17, 2003.
Recommendation for Immediate Action	Conduct assessment of current condition of occupational disease hazards and obtain valid reports.
Compliance Classifications	Immediate Action Required
Local Law	The Measures for Supervision and Administration of the "Three Simultaneities" for Occupational Disease Protection facilities at Construction Projects, Article 4
Benchmark ID	HSE.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning health, safety, and the environment.

Finding Details	1. The factory does not provide pre-job or post-job occupational health examination to workers with hazardous exposure to dust. There have been around 15 new hires and 10 resigned workers eligible for pre-job and post-job occupational health examination during the past 12 months. 2. The factory is upgrading the fire alarm system through August 6, 2021. During the upgrade, the fire alarm system is not working, and the factory is using the backup fire alarms instead. However, the factory has not informed workers or management.
Recommendation for Immediate Action	1. Provide pre-job and post-job occupational health examination to all eligible workers with hazardous exposure to dust. 2. Inform workers and management of using backup fire alarms system during the upgrade.
Compliance Classifications	Immediate Action Required
Local Law	China Law of Prevention and Control of Occupational Diseases, Article 26
Benchmark ID	HSE.28
Benchmark Details	Employers shall create a system to ensure that all necessary Health and Safety protections are provided for external contractors; including protection when working within , confined spaces, maintenance issues, and general Health and Safety Issues.
Finding Details	The factory does not provide safety information to contractors.
Recommendation for Immediate Action	Provide safety information to contractors.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HSE.14.2
Benchmark Details	Workers shall receive training in the proper use and safe operation of machinery, equipment and tools they use.

Finding Details	The factory does not provide safety training to designated workers working with special/high risk responsibilities, including electrical issues, lockout/tagout and work at heights.
Recommendation for Immediate Action	Provide safety training to designated workers working with special/high risk responsibilities, including electrical issues, lockout/tagout and work at heights.
Compliance Classifications	Immediate Action Required
Local Law	Nil
Benchmark ID	HSE.17.1
Benchmark Details	Workstations, including seating and standing arrangements and reach required to obtain tools, shall be designed and set-up in such a manner as to minimize bodily strains.
Finding Details	The factory does not take steps to reduce repetitive-motion stress or injuries. The factory does not provide chairs with armrests and backrests to workers working with sitting position or anti-fatigue mats to workers working with standing position.
Recommendation for Immediate Action	
Compliance Classifications	Sustainable Improvement Required
Local Law	Nil
Hours Of Work (HOW)	
Benchmark ID	HOW.1.1
Benchmark Details	Employers shall comply with all national laws, regulations and procedures concerning hours of work, public holidays and leave.

Finding Details	Overtime hours exceed the legal limit of thirty-six hours per month. Time records for the period from July 2020 to July 30, 2021 and worker interviews indicate that about 80% of workers worked more than 36 overtime hours in all reviewed months except February 2021, with a maximum of 77 overtime hours in November and December 2020.
Recommendation for Immediate Action	Control overtime hours to achieve full compliance with legal requirement.
Compliance Classifications	Immediate Action Required
Local Law	The China Labor Law, Article 41
Benchmark ID	HOW.20
Benchmark Details	Employers shall have in place practices that conduct regular analysis of hours of work in their workplaces and procedures that demonstrate a commitment to progressively reducing excessive hours of work.
Finding Details	The factory production plan is based on 58.5 hours per week. Factory management sets production targets and the production system at a level that workers need to work 18.5 overtime hours (two hours per workday, eight and a half hours on Saturday) per week.
Recommendation for Immediate Action	Set production plan based on regular working hours. Adjust production targets so that workers do not need to work overtime to meet them.
Compliance Classifications	Immediate Action Required
Local Law	Nil

